

Jürgen Jensen, ABA 1011080  
PO Box 3104  
Homer, AK 99603  
(907)222-4646 Phone  
(877)440-5644 Fax  
jurgenjensen@gci.net

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA IN ANCHORAGE

MICHAEL FLORA, )  
Plaintiff, ) IN ADMIRALTY  
 )  
vs. )  
 )  
WINDY BAY, LLC, )  
THE PORT GRAHAM CORPORATION,) )  
and M/V Transporter *in rem* )  
Defendants. )  
\_\_\_\_\_ ) Case No. 3:23-CV-\_\_\_\_\_

**SEAMAN'S ACTION PURSUANT TO 28 USC §1916**  
**UNSEAWORTHYNESS/JONES ACT NEGLIGENCE**

COMES NOW Plaintiff Michael Flora (hereinafter "Flora") through his attorney Jürgen Jensen, and for his complaint against Defendants Windy Bay, LLC; The Port Graham Corporation and *M/V Transporter*, in rem, alleges the following:

1. This is a case of admiralty and maritime jurisdiction as hereinafter fully appears filed pursuant to Fed. R. Civ. P. 9(h) and 28 USC §1331(1).
2. Plaintiff Michael Flora is an injured seaman exempted from the requirement of fees and costs pursuant to 28 USC §1916.
3. On Information and belief, Defendants Windy Bay, LLC (hereinafter Windy Bay) and The Port Graham Corporation (hereinafter Port Gram Corp.) are businesses registered in the State of Alaska and are present and doing business in the State of Alaska at all relevant time and are subject to jurisdiction of this Court.
4. On information and belief, Windy Bay is the owner of *M/V Transporter*.

COMPLAINT

*Flora v. Windy Bay, LLC et. el.*

3:22-cv-\_\_\_\_\_

5. On information and belief, Windy Bay is a subsidiary of Port Graham Corp.
6. On or about November 23, 2021, Flora was contracted by Windy Bay, LLC to drive *M/V Transporter* to deliver goods to Port Graham, AK from Homer, AK across the navigable waters of Kachemak Bay.
7. In transit at approximately 10:50 a.m., Mr. Flora, in his capacity as captain of the voyage, inspected cargo in the deck of *M/V Transporter* to ensure safe transit of the goods and to retrieve a buoy hanging overboard. In the course of the inspection, the bow of *M/V Transporter* dropped causing Mr. Flora to fall on the deck of *M/V Transporter*. The deck of *M/V Transporter* lacked non-skid surfaces resulting in Mr. Flora suffering a dislocated and fractured right ankle and a fractured left ankle. The dislocation resulted in a 90-degree rotation of Mr. Flora's right foot.
8. In response, Mr. Flora reset his right ankle himself. While returning to the Homer Harbor Mr. Flora notified Windy Bay of the inability to deliver due to injury via cell phone and returned to Homer for medical care.
9. Mr. Flora managed to drag himself to a vehicle, drive to and drag himself into the hospital for care for his injuries.
10. As a seaman, Mr. Flora was entitled to the protections of the Jones Act, 46 U.S.C. § 30104, and further entitled to a warranty of seaworthiness as to the *M/V Transporter* and Defendants Windy Bay and Port Graham Corp.
11. Mr. Flora's injuries were proximately caused by conditions that rendered *M/V Transporter* unseaworthy and constituted a breach of Defendants Windy Bay and Port Graham Corp.'s duty to provide a seaworthy vessel.
12. An additional proximate cause of Mr. Flora's injuries was the negligence of the vessel owner breaching their duty to prevent unseaworthy conditions or to address the problems caused by such conditions.
13. As a result of the unseaworthy vessel and vessel negligence, Mr. Flora was injured.
14. Injuries sustained by Mr. Flora have resulted in damages to him including, without limitation, lost earnings, diminished earning capacity, past and future medical

COMPLAINT

*Flora v. Windy Bay, LLC et. al.*

3:22-cv-

expenses, pass and future pain, suffering, emotional distress, loss of enjoyment of life, and other non-economic loss.

**FIRST CAUSE OF ACTION**  
**(unseaworthiness)**

15. Plaintiff Michael Flora realleges and incorporates herein by reference the allegations of paragraphs 1-14 of this Complaint.

16. The Vessel's owners, Windy Bay and the Port Graham Corp. had an absolute and nondelegable duty to maintain M/V Transporter in a seaworthy condition.

17. Mr. Flora's injuries and losses resulted from unseaworthy conditions on M/V Transporter such that Defendants are liable to Mr. Flora for said injuries and losses in amounts to be proven at trial but in no event less than \$100,000.

**SECOND CAUSE OF ACTION**  
**(Jones Act Negligence)**

18. Plaintiff Michael Flora realleges and incorporates herein by reference the allegations of paragraphs 1-17 of this Complaint.

19. The injuries Mr. Flora resulted from the breach of duty of care owed to him under the Jones Act, 46 U.S.C.A. § 30104, and/or under general maritime law. As a result of this negligence, Mr. Flora suffered injuries and losses as described above and Defendants are liable to him in amounts to be proven at trial, but in no event less than \$100,000.

**THIRD CAUSE OF ACTION**  
**(M/V Transporter in rem)**

20. Plaintiff Michael Flora realleges and incorporates herein by reference the allegations of paragraphs 1-19 of this Complaint.

21. As the vessel on which Mr. Flora was working at the time of his injury, the *M/V Transporter* is liable *in rem* for Plaintiff's losses.

**FOURTH CAUSE OF ACTION**  
**(Unpaid Maintenance and Cure)**

22. Plaintiff Michael Flora realleges and incorporates herein by reference the allegations of paragraphs 1-21 of this Complaint.

COMPLAINT

*Flora v. Windy Bay, LLC et. al.*

3:22-cv-\_\_\_\_\_

23. As a result of Plaintiff's injury while in service of M/V Transporter, Defendants Windy Bay and Port Graham Corp. had an absolute duty to pay Maintenance and the medical expenses associated with Mr. Flora's injuries, otherwise known as "Cure."

24. Despite actual knowledge of Plaintiff's injuries, Windy Bay and Port Graham Corp. failed to pay either Maintenance or Cure.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiff requests the following relief:

1. A judgment against Defendants Windy Bay, LLC and the Port Graham Corporation jointly and severally, for unpaid Maintenance and Cure, including but not limited to punitive damages for the failure to make such payments in a timely manner;
2. A judgment against Defendants Windy Bay, LLC and the Port Graham Corporation jointly and severally for damages due to vessel unseaworthiness and Jones Act Negligence;
3. For the issuance of an in rem warrant of arrest instructing the United States Marshal to arrest the vessel M/V Transporter, its engines, gear and appurtenances and detain the vessel in custody subject to further order of the Court.
4. For a judgment in rem in favor of Plaintiff Michael Flora against the vessel M/V Transporter foreclosing his maritime lien for maritime tort in an amount to be proven at trial for Mr. Flora's damages together with interest, cost, and attorney fees; said judgment to have priority over all other liens and mortgages;
5. For an order directing the United States Marshal to sell the vessel M/V Transporter, its engines, gear and appurtenances and all other necessities appertaining and belonging to the vessel and directing the disbursement of the proceeds in the first instance to the Plaintiff to the extent necessary to satisfy his judgment against Defendants;
6. Plaintiff's reasonable costs and attorney fees
7. Such other relief as the court deems appropriate.

COMPLAINT

*Flora v. Windy Bay, LLC et. al.*

3:22-cv-

THE LAW OFFICE OF JÜRGEN JENSEN  
PO Box 3104  
Homer, AK 99603  
(907)222-4646 Fax: (866) 440-5844

DATED: November 22, 2023.

LAW OFFICE OF JÜRGEN JENSEN  
Attorney for Michael Flora

By: /s/ Jürgen Jensen  
Jürgen Jensen  
Alaska Bar No. 1011080

COMPLAINT

*Flora v. Windy Bay, LLC et. el.*

3:22-cv-\_\_\_\_\_

Case 3:23-cv-00268-HRH Document 1 Filed 11/22/23 Page 5 of 5